

Senate File 442 - Introduced

SENATE FILE 442

BY COURNOYER

A BILL FOR

1 An Act related to guaranteed maximum price contracts.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 26A.3, subsection 3, paragraph a,
2 subparagraphs (1) and (2), Code 2023, are amended to read as
3 follows:

4 (1) The governmental entity shall prepare a request for
5 statements of qualifications. The request shall include
6 general information on the project site, project scope,
7 schedule, selection criteria, selection process, and the time
8 and place for receipt of statements of qualifications. The
9 selection process shall include an interview phase, minimum
10 qualification thresholds for a contractor advancing to
11 the interview phase, and a requirement that at least three
12 contractors who meet the minimum qualification threshold
13 shall advance to the interview phase. Selection criteria and
14 general information included in the request for statements
15 of qualifications may be developed in coordination with
16 the engineer, landscape architect, or architect selected or
17 designated by the governmental entity as provided under this
18 section.

19 (2) Selection criteria ~~may~~ shall include the contractor's
20 experience undertaking projects of similar size and scope
21 in either the public or private sector, past performance,
22 safety record, proposed personnel, and proposed methodology.
23 Selection criteria shall include experience in both the public
24 and the private sector. Selection criteria shall not include
25 specific delivery methods, including guaranteed maximum price
26 projects. In addition, selection criteria shall not include
27 training, testing, or other certifications that may only
28 be obtained through organized labor affiliations or other
29 limited-membership organizations.

30 Sec. 2. Section 26A.3, subsection 3, paragraph c, Code 2023,
31 is amended to read as follows:

32 c. The governmental entity shall receive, publicly open, and
33 read aloud the names of the contractors submitting statements
34 of qualifications. Within forty-five days after the date of
35 opening the statements of qualifications submissions, the

1 governmental entity shall conduct interviews of contractors as
2 required by the selection process and evaluate each proposal
3 or statement of qualifications submission in relation to the
4 criteria set forth in the request.

5 Sec. 3. Section 26A.3, subsection 4, paragraph a, Code 2023,
6 is amended to read as follows:

7 a. After considering the statements of qualifications and
8 completing the interview phase as specified in the request of
9 qualifications, the governmental entity shall issue a request
10 for proposals to each contractor who meets the qualifications
11 which shall include selection and evaluation criteria. Each
12 contractor issued a request for proposals shall be permitted to
13 submit a proposal and each proposal submitted shall include the
14 construction manager-at-risk's proposed fees fee methodology
15 and personnel schedule required to manage the requirements
16 of the contract. Except as provided by this paragraph,
17 fee-based selection of the construction manager-at-risk shall
18 be prohibited. The request for proposals shall be subject to
19 the requirements of [section 73A.28](#) and the same limitations
20 applied to selection criteria for the request for statements of
21 qualifications in [this chapter](#).

22 Sec. 4. Section 26A.3, subsection 5, paragraph a,
23 unnumbered paragraph 1, Code 2023, is amended to read as
24 follows:

25 If the estimated total cost of trade contract work and
26 materials packages is in excess of the adjusted competitive
27 bid threshold established in [section 314.1B](#), the construction
28 manager-at-risk shall advertise for competitive bids, receive
29 bids, prepare bid analyses, and award contracts to qualified
30 firms on trade contract work and materials packages in
31 accordance with the competitive bidding requirements of chapter
32 26 and all of the following:

33 Sec. 5. Section 26A.3, subsection 5, paragraph a,
34 subparagraphs (1) and (2), Code 2023, are amended by striking
35 the subparagraphs and inserting in lieu thereof the following:

1 (1) A firm that is prequalified with the state department of
2 transportation pursuant to section 314.1 shall be considered
3 as a qualified firm and shall be allowed to submit a bid
4 for purposes of work related to parking lots, streets, site
5 development, or bridge structure components.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill concerns the process for entering into a
10 guaranteed maximum price contract as provided in Code chapter
11 26A.

12 The bill provides, as part of the selection process of a
13 construction manager-at-risk, that a request for statements
14 of qualifications shall include information on the selection
15 process, which shall include an interview phase, minimum
16 qualification thresholds for a contractor advancing to
17 the interview phase, and a requirement that at least three
18 contractors who meet the minimum qualification threshold shall
19 advance to the interview phase. The bill further provides
20 that the interview phase be conducted and completed prior to
21 issuing a request for proposals from each qualified contractor.
22 The bill also provides that selection criteria relating to
23 the contractor's experience, past performance, safety record,
24 proposed personnel, and proposed methodology shall be required
25 to be included in the selection criteria.

26 The bill provides that each proposal submitted by a
27 contractor shall include the construction manager-at-risk's
28 proposed fee methodology and personnel schedule required to
29 manage the requirements of the contract. Current law only
30 requires the construction manager to include proposed fees. In
31 addition, except as provided in the bill relating to proposed
32 fee methodology, the bill provides that fee-based selection of
33 the construction manager-at-risk shall be prohibited.

34 The bill also provides that the construction
35 manager-at-risk, in awarding contracts for work on the

1 project, shall follow the competitive bidding requirements
2 provided in Code chapter 26 and not a request for statements of
3 qualifications process.